

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

B-219956.2

FILE:

DATE: December 13, 1985

MATTER OF: ATF Construction Company, Inc.--
Reconsideration

DIGEST:

Dismissal of protest because of failure to file copy of protest with the contracting agency within 1 day of filing with GAO as required under Bid Protest Regulations is affirmed, notwithstanding protester's assertion that it relied on advice allegedly provided by GAO attorney.

ATF Construction Company, Inc. (ATF), requests reconsideration of our dismissal of its protest of the Army's determination that its bid under solicitation No. DABT10-85-B-021B was nonresponsive. We affirm the dismissal of ATF's protest.

ATF filed its protest with our Office on August 22, 1985, after receiving verbal notice that the Army would find its bid nonresponsive. We dismissed ATF's protest on September 5, 1985, because ATF had not furnished a copy of its protest with designated contracting agency personnel within 1 day after the protest was filed with us, as required under our Bid Protest Regulations. 4 C.F.R. § 21.1(d) (1985).

ATF asks that we reopen its protest on the basis that it was acting in accordance with instructions from our Office when it failed to file a copy of its protest with the Army. In this respect, ATF states that it spoke by telephone with an attorney in our Office who advised ATF not to send a copy of its protest to the designated Army personnel until ATF received notice that it was nonresponsive.

We are unwilling to accept ATF's characterization of the advice it allegedly received. Although the particular attorney does not recall the details of the conversation, he specifically denies ever advising any party filing a protest with this Office not to furnish a copy of the

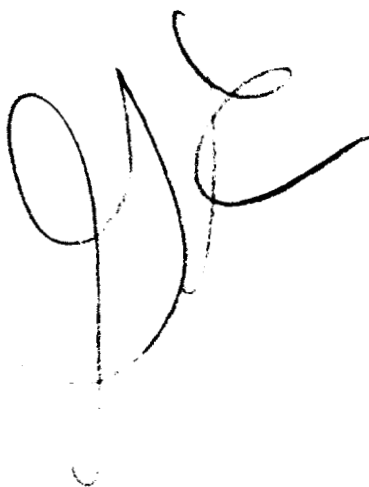
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protest to the contracting agency as required by our regulations. We think it is highly unlikely that one of our attorneys would have given advice on such a fundamental question which so clearly conflicts with the explicit language of the regulation. In our view, it is far more likely that ATF misunderstood general advice regarding the protest filing requirements established in our regulations.

The dismissal is affirmed.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel

A large, stylized handwritten signature, likely of Harry R. Van Cleve, is written in the lower center of the page. The signature is composed of several loops and a long horizontal stroke extending to the right.